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UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Robert L. Keuch
Deputy Assistant Attorney General
Criminal Division, Dept. of Jus ice

DATE: June 6, 1978
EJS:owt

FROM : Earl J. Silbert
United States Attorney
District of Columbia

EJS

SUBJECT: Select Committee on Assassinations - United States House of Representatives; John Ray; Perjury

I have reviewed the memorandum to you from Alfred C. Hantman, dated May 30, 1978, concerning the above subject matter. I agree with it, but have two further thoughts.

(1) There is, of course, sufficient evidence to indict and try John Ray for perjury for his denial of committing the St. Peters bank robbery for which he has been convicted, sentenced, and recently paroled after serving eight years in prison. It is difficult, however, to conceive of any procedure more appropriately subject to an accusation of prosecutorial overreaching.

(2) The goal of the Select Committee--to determine who, if anyone other than James Earl Ray, was involved in the assassination of Dr. Martin Luther King, Jr., is very important. As important as it is, however, proper prosecutorial standards must be maintained. The suggested prosecution is primarily for a purpose other than to punish or deter the conduct involved. This is improper. A trial judge must not allow the proceedings in a criminal trial to be used for any purpose other than to determine whether the prosecution has established the guilt of the accused as required by law. See ABA Standards, The Function of the Trial Judge, §1.1 (Approved Draft, 1972); Similarly, a criminal prosecution should not have as its prime purpose persuading a relative of the alleged offender to "cooperate" with public officials or law enforcement officers.

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Because of the importance of the Committee's project and the need for the full cooperation of the Justice Department, I recommend that Mr. Civiletti's approval be obtained before the Committee is advised of the position of the Department.

bcc: Roger Cubbage